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Department of Defense
DIRECTIVE

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May 16, 1991
NUMBER 4270.36

ASD(P&L)

SUBJECT: DoD Emergency, Contingency, and Other Unprogramed Construction

References:

- (a) DoD Directive 4270.24, "Unspecified Minor Construction, Emergency Construction, and Restoration or Replacement of Damaged or Destroyed Facilities," March 21, 1983 (hereby canceled)
- (b) DoD Directive 4270.32, "Secretary of Defense Military Construction Contingency Authorities," March 29, 1983 (hereby canceled)
- (c) Chapters 133 and 169 of title 10, United States Code
- (d) DoD Directive 1225.7, "Reserve Component Facilities Programs," July 6, 1990
- (e) DoD 7110.1-M, "Department of Defense Budget Guidance Manual," May 1990, authorized by DoD Instruction 7110.1, October 30, 1980

A. PURPOSE

This Directive replaces references (a) and (b) and implements Sections 2803, 2804, 2805, 2808, and 2854 of Chapter 169 of reference (c) to establish policy and assign responsibilities to accomplish emergency, contingency, and certain minor military construction projects for the Department of Defense.

B. APPLICABILITY AND SCOPE

This Directive:

1. Applies to the Office of the Secretary of Defense, the Military Departments (excluding the National Guard and Reserve components); the Chairman of the Joint Chiefs of Staff and the Joint Staff; and the Defense Agencies (hereafter referred to collectively as "the DoD Components"). The National Guard and Reserve components' construction authorities are contained in Chapter 133 of reference (c) and implemented by reference (d).
2. Encompasses the authority and restraints applicable to establishing or developing installations and facilities not authorized by a Military Construction Authorization Act or other special enabling legislation.

C. POLICY

It is DoD policy that:

1. Construction projects should be justified and funded through the normal planning, programing, and budgeting process. This Directive addresses authorities contained in Sections 2803, 2804, 2805, 2808, and 2854 of Chapter

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169 of reference (c) for the accomplishment of projects that are not included in the normal planning, programing, and budgeting process.

2. Requests for reprogramming to fund projects under Sections 2803, 2804, 2805, and 2854 of Chapter 169 of 10 U.S.C. (reference (c)) shall be submitted to the Comptroller of the Department of Defense. Reprograming action is not necessary for the execution of projects undertaken under Section 2808 of Chapter 169 of reference (c).

3. Projects shall be considered for funding under the authorities available to the Heads of DoD Components before being considered for funding under the authority reserved for the Secretary of Defense.

4. The Secretary of Defense retains the approval of all projects processed under Sections 2804 or 2808 of Chapter 169 of reference (c). Projects processed under Sections 2803, 2805, and 2854 of Chapter 169 of reference (c) are approved by the Secretary of the Military Department concerned. The Secretary of Defense delegates approval authority for Sections 2803, 2805, and 2854 of Chapter 169 of reference (c) with respect to Defense Agencies to the Director of the Agency concerned.

D. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Production and Logistics) shall coordinate all requests for the use of the authorities of Sections 2804 and 2808 of Chapter 169 of reference (c).

2. The Heads of the DoD Components:

a. May carry out a military construction project under the authority of Section 2803 of Chapter 169 of reference (c) after appropriate Congressional notification requirements have been met. Each notification shall include a statement that "the project is vital to the national security and deferral for inclusion in the next Military Construction Authorization Act would be inconsistent with nation security."

b. Shall forward all requests for use of Contingency Construction, under Section 2804 of Chapter 169 of reference (c), to the Secretary of Defense through the Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) explaining the situation under which the request is being made. Those requests shall include a statement of why the authority provided under Section 2803 of Chapter 169 of reference (c) cannot be used and a statement verifying the need for the project from the appropriate Unified or Specified Command. The request shall also include DD Form 1391, "FY Military Construction Project Data," justification for use of these authorities instead of the regular planning, programing, and budgeting system, and the anticipated design completion and construction award dates. All projects processed under Section 2804 of Chapter 169 of reference (c) shall include a statement that delaying the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

c. For minor construction projects completed under Section 2805 of Chapter 169 of 10 U.S.C. (reference (c)):

(1) Shall notify in writing the appropriate congressional committees of all unspecified minor construction projects, except for overseas exercise-related projects coordinated by the Chairman of the Joint Chiefs of Staff, to be completed under Section 2805 of Chapter 169 of reference (c) exceeding \$200,000 and wait 21 days before proceeding with said project. Justification material shall be submitted in accordance with DoD 7110.1-M (reference (e)).

(2) Shall ensure that no minor construction project funded under Section 2805 of Chapter 169 of reference (c) exceeds \$1 million.

(3) Shall notify the appropriate congressional committees in writing of any project to be completed under Section 2805 of Chapter 169 of reference (c) that would relocate any activity that involves 25 civilians or more from one installation to another.

(4) May not construct family housing units under Section 2805 of Chapter 169 of reference (c).

(5) May use appropriations available for operations and maintenance to fund minor construction projects, costing \$200,000 or less, under Section 2805 of Chapter 169 of reference (c), except for overseas exercise-related projects coordinated by the Chairman of the Joint Chiefs of Staff.

d. Shall forward all requests to use the authority for construction in a war or national emergency, under Section 2808 of Chapter 169 of reference (c), to the Secretary of Defense through the ASD(P&L). The request should indicate why the facility is needed and include a DD Form 1391, with a rough description and cost estimate of the scope of work required.

e. May repair, restore, or replace a facility, including a family housing facility, under Section 2854 of Chapter 169 of reference (c) that has been damaged or destroyed. The Head of the affected Component shall notify the appropriate committees of Congress and wait 21 days before proceeding with the project.

3. The Chairman of the Joint Chiefs of Staff:

a. Shall notify the appropriate committees of Congress of all overseas exercise-related minor construction projects.

b. Shall assign priority among competing requests from the Unified and Specified Commanders for the use of construction authority under Section 2808 of Chapter 169 of reference (c) and forward them to the ASD(P&L).

4. The Commanders of the Unified and Specified Commands:

a. Shall coordinate and assign priority to all requests under their cognizance for the use of construction authority under Section 2808 of Chapter 169 of reference (c).

b. Shall verify the need for all project requests under their cognizance for the use of construction authority under Section 2804 of Chapter 169 of 10 U.S.C. (reference (c)).

E. EFFECTIVE DATE

This Directive is effective immediately.



Donald J. Atwood
Deputy Secretary of Defense

DEPARTMENT OF DEFENSE

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4270.36, Change 1	July 7, 1992	4000 Series

ATTACHMENTS

None

INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DoD Directive 4270.36, "DoD Emergency, Contingency, and Other Unprogramed Construction," May 16, 1991, are authorized:

PEN CHANGES

Page 2

Paragraph D.2.a., line 6. Change "nation" to "national"

Page 3

Subparagraph D.2.c.(2), line 2. Change "\$1 million" to "\$1.5 million"

Subparagraph D.2.c.(5), line 2. Change "\$200,000" to "\$300,000"

EFFECTIVE DATE

The above changes are effective immediately.

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Director
Correspondence and Directives

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